

AMENDED IN SENATE JUNE 3, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1795**

---

**Introduced by Committee on Agriculture (Galgiani (Chair), Tom Berryhill (Vice Chair), Conway, Ma, Mendoza, and Yamada)**

February 10, 2010

---

An act to amend ~~Section~~ Sections 48001, 48002, 48002.5, 48003, and 76750 of, and to repeal Section 75540 of, the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 1795, as amended, Committee on Agriculture. Agriculture: ~~marketing advisory and promotional councils and commissions:~~ California Citrus Advisory Committee: California Apple Commission: California Salmon Council.

(1) Existing law provides that there is in the Department of Food and Agriculture the California Citrus Advisory Committee, comprised as specified. The committee is required to develop and make recommendations to the Secretary of Food and Agriculture on all matters regarding the implementation of certain provisions of law relating to citrus fruit crops, including certain specified matters. Existing law requires producers of navel oranges, Valencia oranges, lemons, or mandarin citrus varieties grown in this state and prepared for fresh market in certain counties of the state to pay an assessment, as provided, based on the number of cartons shipped. The assessment is for the purpose of conducting an inspection program in certain counties in the state and funding a crop survey program.

This bill would also require the committee to annually recommend to the secretary the assessment rate and would instead provide that the

*assessment be based on the number of 40-pound carton equivalents produced. The bill would also define “carton” to mean a unit equivalent to 40 pounds of citrus fruit.*

*Existing law authorizes the committee to recommend to the secretary that no assessment, as described above, be collected from these growers of navel oranges, Valencia oranges, lemons, or mandarin citrus varieties if no inspection program or crop survey exists for that particular orange or citrus variety.*

*This bill would also authorize the committee to recommend to the secretary an assessment less than the amount specified in existing law.*

*This bill would provide that the adoption, amendment, or repeal of assessment rates shall not be subject to certain rulemaking provisions. The bill would authorize the secretary to issue an order to adopt, amend, or repeal the regulations concerning assessment rates. This order, which the bill would require to contain specified information and to be transmitted within 30 days by the secretary to the Office of Administrative Law, would be required to be filed promptly with the Secretary of State by the Office of Administrative Law without further review.*

*Existing law requires the assessment to be collected from the producer by the first handler, as defined, and remitted to the department by that handler, along with an assessment form, at the end of each month during the marketing season. Under existing law, it is unlawful, upon the establishment of an inspection program, for any handler to refuse to collect the assessments or remit the assessments and the proper forms.*

*This bill would prohibit a handler from charging a producer an administrative fee for collecting or remitting an assessment. The bill would authorize a producer who disputes the assessment amount to file a claim with the secretary and would provide that a producer may not bring a claim against a handler for damages, or otherwise, in connection with the assessment or the required deduction by the handler of the moneys owed to the producer. By imposing new requirements on handlers and producers, the violation of which would be a crime, the bill would create new crimes and would thereby impose a state-mandated local program.*

*(2) Existing law establishes in state government the California Apple Commission, which consists of 12 apple producer and handler members and one public member. Existing law specifies that the term of office of each member of the commission, except ex officio members, is 4*

years, and limits the number of terms of office of each member to 4 consecutive terms.

This bill would delete the limitation on the number of terms of office.

(2)

(3) Existing law establishes in state government the California Salmon Council and provides that the council may, subject to the approval of the Secretary of Food and Agriculture, exercise specified powers which may be delegated to the council by the secretary, including, among others, the power to make contracts and other agreements to promote the sale of salmon and salmon products on either a local, state, national, or international basis.

This bill would also authorize the council to present facts to, and negotiate with, state, federal, and foreign agencies on matters that affect the provisions relating to the council.

(4) *This bill would also make various technical and clarifying changes.*

(5) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 48001 of the Food and Agricultural Code  
2     is amended to read:

3     48001. (a) There is in the department the California Citrus  
4     Advisory Committee.

5     (b) The committee shall be comprised as follows:

6     (1) Eight producers.

7     (A) Five producer members shall be engaged in the production  
8     of navel or Valencia oranges; four of which shall be engaged in  
9     the production of navel or Valencia oranges in the San Joaquin  
10    Valley, and two of the four members shall be engaged in the  
11    production of navel or Valencia oranges in Tulare County.

1 (B) Two producer members shall be engaged in the production  
2 of lemons, one of which is engaged in the production of lemons  
3 in Ventura County.

4 (C) One of the members shall be engaged in the production of  
5 mandarin citrus.

6 (2) Four handlers, which have their principal place of business  
7 located in one of the following counties: Fresno, Kern, Madera,  
8 Orange, Riverside, San Bernardino, Santa Clara, Tulare, and  
9 Ventura.

10 (A) Two handler members shall be located in the San Joaquin  
11 Valley.

12 (B) One handler member shall be engaged in the handling of  
13 lemons in Ventura County.

14 (c) The committee shall be appointed by the secretary from  
15 nominations submitted to the secretary by members of the navel  
16 orange, Valencia orange, lemon, and mandarin citrus industries  
17 group.

18 (d) Committee members may be compensated for reasonable  
19 expenses actually incurred in the performance of their duties, as  
20 determined by the committee and concurred in by the secretary.

21 (e) The committee shall meet at the request of the secretary, the  
22 committee chairperson, or upon the request of three committee  
23 members.

24 (f) The committee shall appoint a chairperson, one or more vice  
25 chairpersons, and any other officers it deems necessary.

26 (g) The committee shall develop and make recommendations  
27 to the secretary on all matters regarding the implementation of this  
28 chapter including:

29 (1) *The assessment rate as specified in Section 48002.*

30 ~~(1)~~

31 (2) Procedures for implementing an inspection program that  
32 shall include, but not be limited to, the following:

33 (A) Mandatory hold for inspection prior to shipping, following  
34 a citrus freeze.

35 (B) The minimum number of inspections to be conducted, and  
36 the duration of each inspection period.

37 (C) The minimum number of samples to be taken.

38 (D) Statistical analysis of compliance levels and determination  
39 of an acceptable level of compliance.

1 (E) Documentation of inspection data including the number of  
2 inspectors, number of inspections performed, and budget  
3 information relating to expenses of personnel, mileage, and  
4 overhead costs.

5 (F) Monitoring and postevaluation of program effectiveness by  
6 the secretary.

7 (G) Development of a single memorandum of understanding  
8 between the department and all county agricultural commissioners  
9 for the counties specified in subdivision (b).

10 ~~(2)~~

11 (3) Determinations as to which counties have met the inspection  
12 requirements.

13 ~~(3)~~

14 (4) Procedures for implementing a state crop estimating and  
15 acreage survey.

16 (h) The secretary shall accept the recommendations of the  
17 committee if he or she determines that the recommendations are  
18 practicable and in the interest of the industry and the public. The  
19 secretary shall provide the committee within 30 days of receipt of  
20 the recommendations with a written statement of reasons if he or  
21 she does not accept any of the recommendations.

22 *SEC. 2. Section 48002 of the Food and Agricultural Code is*  
23 *amended to read:*

24 48002. (a) In addition to any other assessment, fees, or charges  
25 that may be required pursuant to this code, producers of navel  
26 oranges, Valencia oranges, lemons, or mandarin citrus varieties  
27 grown in this state and prepared for fresh market in the Counties  
28 of Fresno, Kern, Madera, Orange, Riverside, San Bernardino, Santa  
29 Clara, Tulare, and Ventura shall pay an assessment that shall not  
30 exceed 11 mills (\$0.011) per carton for navel oranges, 5 mills  
31 (\$0.005) per carton for lemons, and 6 mills (\$0.006) per carton for  
32 Valencia oranges and mandarin citrus. The assessment shall be:

33 *(1) Commencing April 1, 2011, recommended annually by the*  
34 *committee and submitted to the secretary for approval in amounts*  
35 *not to exceed those specified above.*

36 ~~(1)~~

37 (2) Based on the number of ~~cartons shipped~~ 40-pound carton  
38 equivalents produced.

39 ~~(2)~~

(3) Used to reimburse agricultural commissioners, pursuant to a contract between the department and the commissioners, in the counties specified in this section, who meet the requirements of the inspection program as determined by the committee and concurred in by the secretary.

~~(3)~~

(4) Used to establish a reserve to fund the frost inspection program. The reserve amount shall be determined by the ~~advisory~~ committee.

~~(4)~~

(5) Used to fund a program within the department to provide the industry with a state crop estimating service and an acreage survey.

~~(5)~~

(6) Collected from the producer by the first handler. For the purposes of this chapter, “producer” means a grower of navel oranges, Valencia oranges, lemons, or mandarin citrus and “handler” means a person or entity who receives navel oranges, Valencia oranges, lemons, or mandarin citrus from a producer and who prepares the oranges, lemons, or mandarin citrus for fresh market. If a producer prepares the oranges, lemons, or mandarin citrus for market, the producer shall be deemed the handler.

~~(6)~~

(7) Remitted to the department by the first handler, along with an assessment form, at the end of each month during the marketing season.

~~(7)~~

(8) Deposited in the Department of Food and Agriculture Fund or, upon the recommendation of the committee, deposited in accordance with Section 227 or Article 2.5 (commencing with Section 230) of Chapter 2 of Part 1 of Division 1.

(b) In no case shall:

(1) The total amount reimbursed to all counties exceed the total amount collected from the producers in all counties, unless reserve moneys are required for the frost inspection program. However, the authorized expenditures shall not exceed the combined total of reserve moneys and revenue received in that fiscal year.

(2) The reimbursement to any county exceed the amount approved by the committee and concurred in by the secretary.

1 (c) If the inspection program is terminated and there are  
2 insufficient funds to cover the cost of terminating the inspection  
3 program, the assessment shall continue until all those costs are  
4 recovered.

5 (d) The committee may recommend to the secretary *an*  
6 *assessment less than the amount specified in subdivision (a) or*  
7 *that no assessment be collected from growers of navel oranges,*  
8 *Valencia oranges, lemons, or mandarin citrus varieties if no*  
9 *inspection program or crop survey exists for that particular orange*  
10 *or citrus variety. If no assessment is collected from an orange or*  
11 *citrus variety that has a representative on the committee, the*  
12 *secretary may designate a representative to the committee from*  
13 *an orange or citrus variety that is assessed.*

14 (e) *The adoption, amendment, or repeal of assessment rates*  
15 *pursuant to this section shall not be subject to the requirements*  
16 *of Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
17 *Division 3 of Title 2 of the Government Code. An order to adopt,*  
18 *amend, or repeal the regulations concerning assessment rates*  
19 *pursuant to this section shall be transmitted within 30 days by the*  
20 *secretary to the Office of Administrative Law. The Office of*  
21 *Administrative Law shall file the order promptly with the Secretary*  
22 *of State without further review pursuant to Article 6 (commencing*  
23 *with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title*  
24 *2 of the Government Code. The order shall do all of the following:*

25 (1) *Indicate that the regulations are being adopted, amended,*  
26 *or repealed pursuant to this chapter.*

27 (2) *State that the order is being transmitted for filing.*

28 (3) *Request that the Office of Administrative Law publish a*  
29 *notice of the filing of the order and print an appropriate reference*  
30 *in Title 3 of the California Code of Regulations.*

31 SEC. 3. Section 48002.5 of the Food and Agricultural Code is  
32 amended to read:

33 48002.5. For purposes of this chapter, ~~“mandarin citrus” means~~  
34 ~~mandarins, including tangerines and mandarin hybrids. the~~  
35 ~~following definitions apply:~~

36 (a) “Carton” means a unit equivalent to 40 pounds of citrus  
37 fruit.

38 (b) “Mandarin citrus” means mandarins, including tangerines  
39 and mandarin hybrids.

1     *SEC. 4. Section 48003 of the Food and Agricultural Code is*  
2     *amended to read:*

3     48003. (a) Upon establishment of an inspection program, any  
4     handler who does not file the required assessment report and  
5     assessments by the 10th day of the month following the month for  
6     which the assessment is payable shall pay a penalty of 10 percent  
7     of the assessment owed and, in addition, ~~1½~~ 1.5 percent interest  
8     per month on the unpaid balance.

9     (b) Upon establishment of an inspection program, it shall be  
10    unlawful for any handler to refuse to collect the assessments or  
11    remit the assessments and the proper forms required by this chapter.

12    (c) *A handler shall not charge a producer an administrative fee*  
13    *for collecting or remitting an assessment.*

14    (d) *A producer who disputes the amount of the assessment may*  
15    *file a claim with the secretary. The producer shall prove his or*  
16    *her claim by a preponderance of the evidence.*

17    (e) *A producer may not bring a claim against a handler for*  
18    *damages, or otherwise, in connection with the assessment or the*  
19    *required deduction by the handler of the moneys owed to the*  
20    *producer.*

21    **SECTION 1.**

22    *SEC. 5. Section 75540 of the Food and Agricultural Code is*  
23    *repealed.*

24    ~~**SEC. 2.**~~

25    *SEC. 6. Section 76750 of the Food and Agricultural Code is*  
26    *amended to read:*

27    76750. The duties of the council shall be advisory, except as  
28    to those duties that may be delegated to it by the secretary or as  
29    otherwise designated in this chapter. The council may, subject to  
30    the approval of the secretary, exercise any of the following powers  
31    that may be delegated to the council by the secretary:

32    (a) To recommend to the secretary administrative regulations  
33    that relate to the administration and enforcement of this chapter.

34    (b) To investigate all matters that affect the administration of  
35    this chapter, and to report violations of this chapter to the secretary.

36    (c) To employ and, at its pleasure, discharge a manager and  
37    such clerical help and other employees as it deems necessary, and  
38    to prescribe their duties and powers and fix their compensation.

39    (d) To contract with, or employ, and at its pleasure, discharge  
40    any other persons that it deems necessary, and in the cases of those



1 persons it shall employ, to outline their powers and duties and fix  
2 their compensation.

3 (e) To establish offices and incur expenses incidental thereto.

4 (f) To make contracts and other agreements that may be proper  
5 to promote the sale of salmon and salmon products on either a  
6 local, state, national, or international basis.

7 (g) (1) To cooperate with any other local, state, or national  
8 commission, organization, or agency, whether voluntary or created  
9 by state or federal law, including, but not limited to, the Oregon  
10 Salmon Commission, the West Coast Fisheries Development  
11 Foundation, the Coastal Fisheries Foundation, and the National  
12 Fish and Seafood Promotion Council, that is engaged in work or  
13 activities similar to the work and activities of the council, and to  
14 recommend to the secretary the making of contracts and agreements  
15 with those organizations or agencies for carrying on joint programs  
16 of education, research, publicity, and advertising.

17 (2) To recommend to the secretary the making of contracts and  
18 agreements with other councils, commodity commissions, or  
19 producer organizations for joint programs of publicity and  
20 advertising where those products are compatible with the promotion  
21 of salmon and salmon products.

22 (3) In matters of research, to cooperate with organizations of  
23 recognized professional standing that are adequately equipped  
24 with facilities for the research that is contemplated.

25 (h) To recommend to the secretary the institution and promotion  
26 of scientific research to develop or discover, or both, the health,  
27 food, therapeutic, dietetic, and other uses of salmon.

28 (i) (1) To receive, invest, and disburse funds pursuant to Article  
29 8 (commencing with Section 76900).

30 (2) To allocate funds to agencies not specifically or solely  
31 engaged in carrying on research or promotion for salmon, if the  
32 council and the secretary are satisfied that those allocations will  
33 be beneficial to the California salmon fishery and will tend to  
34 effectuate the declared purposes of this chapter.

35 (j) To present facts to, and negotiate with, state, federal, and  
36 foreign agencies on matters that affect this chapter.

37 *SEC. 7. No reimbursement is required by this act pursuant to*  
38 *Section 6 of Article XIII B of the California Constitution because*  
39 *the only costs that may be incurred by a local agency or school*  
40 *district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the penalty*  
2 *for a crime or infraction, within the meaning of Section 17556 of*  
3 *the Government Code, or changes the definition of a crime within*  
4 *the meaning of Section 6 of Article XIII B of the California*  
5 *Constitution.*

O